

GN 690 of 19 June 2020: Regulations on the Allowance in respect of trade exposure in respect of carbon tax liability under section 10 of the Act (Government Gazette No. 43451)

NATIONAL TREASURY

I, Tito Titus Mboweni, Minister of Finance, under section 19 (b) of the Carbon Tax Act, 2019 (Act No. 15 of 2019), hereby make the regulations for the purposes of section 10 of that Act, as set out in the Schedule hereto.

(Signed)

TT MBOWENI
MINISTER OF FINANCE

SCHEDULE

PREAMBLE

SINCE, in ratifying the Paris Agreement, South Africa together with other countries committed to help limit warming to well below two degrees Celsius above pre-industrial levels and to implement climate policy measures to incentivise absolute emission reductions;

AND SINCE, carbon pricing measures are recognised as important policies as part of climate policy packages that help to price GHG emissions and create incentives for changes in the behaviour of both consumers and producers that drive reductions in GHG emissions in a cost effective, flexible manner;

AND SINCE, as the coverage of carbon pricing measures expands globally, the impacts on industry competitiveness are likely to be reduced and the benefits and investment opportunities will increase for new, low carbon industries;

AND SINCE, it is also critical to ensure that the risk mitigation measure does not affect the ability of the carbon tax to address the climate change objectives and should take into account the impact of the measure on the environmental effectiveness of the carbon tax price signal;

THEREFORE, while internalising the social costs of greenhouse gases, to address potential risk of carbon leakage and reduced industry competitiveness, transitional support is provided to sectors and subsectors through a special, targeted trade exposure allowance.

BE IT THEREFORE ENACTED by Regulation as follows—

ARRANGEMENT OF REGULATIONS

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| 1. | Definitions |
| 2. | Determining allowance in respect of trade exposure for purposes of determining carbon tax liability |
| 3. | Determining allowance in respect of trade exposure for purposes of determining carbon tax liability in relation to more than one sector |
| 4. | Alternative method for calculating trade exposure allowance |
| 5. | Short title and commencement |

1. Definitions.—In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Carbon Tax Act, 2019 (Act No. 15 of 2019), bears the meaning so assigned, and —

“**Carbon Tax Act**”, means the Carbon Tax Act, 2019 (Act No. 15 of 2019).

2. Determining allowance in respect of trade exposure for purposes of determining carbon tax liability.—Subject to regulations 3 and 4, for the purposes of section 10 of the Carbon Tax Act, 2019, a taxpayer that must receive an allowance in respect of trade exposure must determine that allowance in accordance with the table contained in Annexure A by matching the line in the column “Sector Name” with the percentage in the corresponding line of the column “Trade Exposure Allowance”.

3. Determining allowance in respect of trade exposure for purposes of determining carbon tax liability in relation to more than one sector.—For the purposes of section 10 of the Carbon Tax Act, 2019, where a taxpayer that must receive an allowance in respect of trade exposure is subject to trade exposure in respect of more than one sector, that allowance must be a percentage equal to the sum of the percentages in respect of each sector determined in accordance with the formula:

$$X = S \times N$$

in which formula—

- (a) “X” represents the percentage to be determined;
- (b) “S” represents the percentage of the allowance in respect of the relevant sector, determined in terms of regulation 2; and

- (c) "N" represents a number that must be determined in accordance with the formula:

$$N = \frac{P}{S} \times Y$$

in which formula—

- (i) "N" represents the number to be determined;
- (ii) "P" represents the number equal to average of the monetary value of the total production, expressed in Rand, of the relevant individual sector for the immediately preceding three tax periods, determined by means of the statistical release published from time to time by Statistics South Africa: "Manufacturing: Production and Sales" or by means of the statistical release published from time to time by Statistics South Africa: "Mining": Production and Sales";

(Editorial Note: Wording as per original *Government Gazette*.)

- (iii) "S" represents a number equal to the sum of the average of the monetary value of the total production, expressed in Rand, of all the relevant sectors for the immediately preceding three tax periods determined by means of the statistical release published from time to time by Statistics South Africa: "Manufacturing: Production and Sales" or by means of the statistical release published from time to time by Statistics South Africa: "Mining": Production and Sales"; and

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- (iv) "Y" represents the number 100.

4. Alternative method for calculating trade exposure allowance.—(1) Subject to subregulation (2), if a taxpayer is of the opinion that the trade exposure allowance determined in terms of regulation 2 does not accurately reflect the extent of the trade exposure of that taxpayer, that taxpayer may determine the percentage of the trade exposure allowance in accordance with subregulation (2) and (3).

(2) A taxpayer must determine the trade exposure allowance of that taxpayer in accordance with the formula:

$$X = \frac{(E+I)}{S} \times Y$$

in which formula—

- (a) "X" represents the percentage to be determined;
- (b) "E" represents an amount equal to the monetary value, expressed in Rand, of products that were exported, after the creation, extraction, production, assembly, repair or improvement, minor assembly or adjustment, packaging, repackaging and labelling of those products, by the taxpayer during the tax period, verified by an independent auditor;
- (b) "I" represents an amount equal to the monetary value, expressed in Rand, of products, after the creation, extraction, production, assembly, repair or improvement, minor assembly or adjustment, packaging, repackaging and labelling of those products, that were imported by the taxpayer during the tax period, verified by an independent auditor;

(Editorial Note: Numbering as per original *Government Gazette*.)

- (c) "S" represents an amount equal to the total sales, expressed in Rand, of the taxpayer during the tax period, verified by an independent auditor; and
- (d) "Y" represents the number 100.

(3) A taxpayer must, if the percentage determined in terms of subregulation (2) is—

- (a) less than 10 per cent, receive no allowance;
- (b) equal to or greater than 10 per cent, but less than 30 per cent, receive an allowance equal to the percentage determined in terms of subregulation (2) multiplied by the fraction 0.33; or
- (c) equal to or greater than 30 per cent, receive an allowance of 10 per cent.

5. Short title and commencement.—These regulations are called the Regulations on the Allowance in respect of trade exposure in respect of carbon tax liability under section 10 of the Carbon Tax Act and are deemed to have come into operation on 1 June 2019.

ANNEXURE A

SIC Code	Sector Name	Trade Exposure Allowance
210	Mining of coal and lignite	10,00%

221	Extraction of petroleum and natural gas	10,00%
230	Mining of gold and uranium	10,00%
241	Mining of iron ore	10,00%
242	Mining of non-ferrous metals	10,00%
251	Stone quarrying, clay and sand	10,00%
253	Mining and quarrying other non-metallic minerals	10,00%
301	Meat, fish, fruit, vegetables, oils and fats	10,00%
302	Dairy products	4,48%
303	Grain mill products	7,37%
304	Other food products	7,59%
305	Beverages	3,46%
306	Manufacture of tobacco products	7,06%
311	Textiles	10,00%
312	Other textile products	10,00%
313	Knitted, crocheted articles	10,00%
314	Wearing apparel	10,00%
316	Leather and leather products	10,00%
317	Footwear	10,00%
321	Sawmilling and planing of wood	10,00%
322	Products of wood	6,12%
323	Paper and paper products	10,00%
324	Publishing	7,91%
325	Printing, recorded media	0,00%
331-333	Coke, petroleum products and nuclear fuel	10,00%
334	Basic chemicals	10,00%
335	Other chemical products	10,00%
336	Manufacture of manmade fibre	4,45%
337	Rubber products	10,00%
338	Plastic products	10,00%
341	Glass and glass products	10,00%
342	Non-metallic mineral products	8,26%
351	Basic iron and steel products	10,00%
352	Non-ferrous metal products	10,00%
353	Casting of metals	10,00%
354	Structural metal products	7,53%
355	Other fabricated metal products	10,00%
356	General purpose machinery	10,00%
357	Special purpose machinery	10,00%
358	Household appliances	10,00%
359	Manufacturing of computing machinery	10,00%
361	Electric motors, generators, transformers	10,00%
362	Electricity distribution and control apparatus	10,00%
363	Insulated wire and cables	10,00%
364	Accumulators, primary cells and primary batteries	10,00%
365	Electric lamps and lighting equipment	10,00%
366	Other electrical equipment	10,00%
369	Electrical machinery	10,00%
371	Manufacture of electronic valves and tubes and other electric components	10,00%
372	Manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy	10,00%

373	Manufacture of television and radio receivers, sound or video recording or reproducing apparatus and associated goods	10,00%
374	Professional equipment	10,00%
375	Manufacture of optical instruments and photographic equipment	10,00%
376	Manufacture of watches and clocks	10,00%
379	Radio, television and communication apparatus and professional equipment	10,00%
381	Motor vehicles	10,00%
382	Bodies for motor vehicles, trailers and semi-trailers	10,00%
383	Parts and accessories	9,81%
384	Other transport equipment	0,00%
385	Manufacture of railway and tramway locomotives and rolling stock	10,00%
386	Manufacture of aircraft and space craft	10,00%
387	Manufacture of transport equipment not elsewhere classified	10,00%
389	Motor vehicles, parts and accessories and other transport equipment	10,00%
391	Furniture	10,00%
411	Production, collection and distribution of electricity	4,87%
412	Manufacture of gas; distribution of gaseous fuels through mains	4,87%
413	Steam and hot water supply	4,87%
3042	Manufacture of sugar, including golden syrup and castor sugar	10,00%

(Editorial Note: Wording as per original *Government Gazette*.)